

MAR 03 2009

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUAN VILLANUEVA-MACHADO,

Defendant - Appellant.

No. 08-50265

D.C. No. 3:03-cr-02879-GT-1

MEMORANDUM^{*}

Appeal from the United States District Court
for the Southern District of California
Gordon Thompson, District Judge, Presiding

Submitted February 18, 2009^{**}

Before: BEEZER, FERNANDEZ, and W. FLETCHER, Circuit Judges.

Juan Villanueva-Machado appeals from the eight-month sentence imposed upon remand following the revocation of supervised release. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Villanueva-Machado contends that his sentence is unreasonable because the district court relied upon the impermissible factors of “just punishment” and “seriousness of the offense,” set forth in 18 U.S.C. § 3553(a)(2)(A), in formulating the sentence. The record indicates that the district court did not rely solely or primarily on impermissible factors when imposing the revocation sentence and focused instead on the breach of trust. We therefore conclude that the sentence is reasonable. *See United States v. Simtob*, 485 F.3d 1058, 1062-64 (9th Cir. 2007); *see also United States v. Miqbel*, 444 F.3d 1173, 1182-83 (9th Cir. 2006).

AFFIRMED.